

REMARKS

Claims 1-3 and 5-21 are pending. Claims 1, 3, 5, 8-10, 12-16, and 18-20 are rejected under 35 U.S.C. § 102(b). Claims 2, 6-7, 11, 17, and 21 are rejected under 35 U.S.C. § 103(a). Claims 4 and 22-32 are cancelled without prejudice. Claims 13-14, 17-18, and 20 are currently amended.

Principle of Law: "All words in a claim must be considered in judging patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385; 57 C.C.P.A. 1029, 1032 (1970).

Independent claim 1 is rejected as being anticipated by Van De Berg (U.S. Pat. No. 5,907,812) under 35 U.S.C. § 102(b). Claim 1, as amended, recites "A method of selecting a plurality of frequency bands for use in a desired wireless communication from among a plurality of frequency bands available to be used for the desired wireless communication, comprising: passively monitoring the plurality of frequency bands to determine interference information for each of the frequency bands; **summing the interference information of said each of the frequency bands to produce a signal quality indication; and selecting the plurality of frequency bands for the desired wireless communication in response to the signal quality indication.**" (emphasis added). This method of summing interference levels of individual frequency bands is described in detail at page 8, lines 3-8 and at page 10, lines 2-15 of the instant application.

Regarding the disclosure of Van De Berg, Examiner states "the results of the scanning are combined to determine an interference-free frequency band of the carrier frequency bands." (Office Action 6/16/2008, page 3). Van De Berg, however, DOES NOT disclose "summing the interference information of said each of the frequency bands to produce a signal quality indication" as required by claim 1 and described in detail below. Similar limitations are included in amended claim 13.

Van De Berg does not anticipate claim 1 for the following reasons. First, Van De Berg DOES NOT DISCLOSE the step of “summing the interference information of said each of the frequency bands to produce a signal quality indication.” Van De Berg discloses comparison of individual narrow band frequencies against a threshold value to determine that each narrow band frequency is essentially free of interference. For example, Van De Berg discloses “At each carrier frequency position, a detection is carried out for the presence of interference, indicated by step 3 ‘INTERFERENCE DETECTION’. With decision step 4 ‘INTERFERENCE FREE’, it is tested whether the particular carrier frequency position is essentially free of interference; i.e. such that a reliable communication could be established over this part of the radio frequency band. If negative ‘No’, scanning has to be proceeded at another carrier frequency position. In the affirmative ‘Yes’, the result of the scan at the particular carrier frequency position will be processed in step 5 ‘FORM BAND’.” (col. 9, lines 6-17). Thus, Van De Berg detects interference at a carrier frequency position at step 3 of Figure 7. Then a pass/fail decision is made at step 4 for that carrier frequency position based only on interference detected at that carrier frequency position. Van De Berg DOES NOT DISCLOSE that interference detected at any other carrier frequency position is considered in the pass/fail decision at step 4. Each carrier frequency is either accepted or rejected at step 4 based only on the interference detected at that frequency. Thus, Van De Berg DOES NOT DISCLOSE to disclose the step of “summing the interference information of said each of the frequency bands to produce a signal quality indication” as required by claim 1.

Second, Van De Berg DOES NOT DISCLOSE producing a signal quality indication as required by claim 1. Here, the “signal quality indication” is produced in the step of “summing the interference information of said each of the frequency bands to produce a signal quality indication.” Since Van De Berg DOES NOT DISCLOSE the step of summing, Van De Berg also DOES NOT DISCLOSE producing the signal quality indication as required by claim 1.

Finally, Van De Berg DOES NOT DISCLOSE the step of “selecting the plurality of frequency bands for the desired wireless communication in response to the signal quality

indication” as required by claim 1. Van De Berg selects each individual carrier frequency based only on the interference detected at step 3 (Figure 7) for that carrier frequency. Van De Berg DOES NOT DISCLOSE the step of “summing the interference information of said each of the frequency bands to produce a signal quality indication.” Thus, Van De Berg necessarily DOES NOT DISCLOSE “selecting the plurality of frequency bands for the desired wireless communication in response to the signal quality indication” as required by claim 1. For all the foregoing reasons, applicants respectfully submit that Van De Berg does not anticipate independent claim 1 of the present invention. Thus, claim 1 and depending claims 3, 5, 8-10, 12 are patentable over Van De Berg under 35 U.S.C. § 102(b).

Independent claim 13 is rejected as being anticipated by Van De Berg. Independent claim 13, as amended, recites “A wireless communication station, comprising: an antenna for use in wireless communications; a band selection controller coupled to said antenna for selecting a plurality of frequency bands to be used for the desired wireless communication; said band selection controller operable for passively monitoring each frequency band of the plurality of frequency bands to determine respective interference information for said each frequency band; said band selection controller operable for **summing the respective interference information of said each frequency band to produce a signal quality indication; and said band selection controller further operable for selecting the plurality of frequency bands for the desired wireless communication in response to the signal quality indication.**” (emphasis added). Operation of the band selection controller is described in detail at page 9, lines 16 through page 10, line 15 (Figure 3).

Van De Berg does not anticipate claim 13 for the following reasons. First, Van De Berg DOES NOT DISCLOSE the step of “summing the respective interference information of said each frequency band to produce a signal quality indication.” Van De Berg discloses comparison of individual narrow band frequencies against a threshold value to determine that each narrow band frequency is essentially free of interference. For example, Van De Berg discloses “At each carrier frequency position, a detection is carried out for the presence of interference, indicated by

step 3 'INTERFERENCE DETECTION'. With decision step 4 'INTERFERENCE FREE', it is tested whether the particular carrier frequency position is essentially free of interference; i.e. such that a reliable communication could be established over this part of the radio frequency band. If negative 'No', scanning has to be proceeded at another carrier frequency position. In the affirmative 'Yes', the result of the scan at the particular carrier frequency position will be processed in step 5 'FORM BAND'." (col. 9, lines 6-17). Thus, Van De Berg detects interference at a carrier frequency position at step 3 of Figure 7. Then a pass/fail decision is made at step 4 for that carrier frequency position based only on interference detected at that carrier frequency position. Van De Berg DOES NOT DISCLOSE that interference detected at any other carrier frequency position is considered in the pass/fail decision at step 4. Each carrier frequency is either accepted or rejected at step 4 based only on the interference detected at that frequency. Thus, Van De Berg DOES NOT DISCLOSE to disclose the step of "summing the interference information of said each of the frequency bands to produce a signal quality indication" as required by claim 13.

Second, Van De Berg DOES NOT DISCLOSE producing a signal quality indication as required by claim 1. Here, the "signal quality indication" is produced in the step of "summing the interference information of said each frequency band to produce a signal quality indication." Since Van De Berg DOES NOT DISCLOSE the step of summing, Van De Berg also DOES NOT DISCLOSE producing the signal quality indication as required by claim 13.


Finally, Van De Berg DOES NOT DISCLOSE the step of "selecting the plurality of frequency bands for the desired wireless communication in response to the signal quality indication" as required by claim 13. Van De Berg selects each individual carrier frequency based only on the interference detected at step 3 (Figure 7) for that carrier frequency. Van De Berg DOES NOT DISCLOSE the step of "summing the respective interference information of said each frequency band to produce a signal quality indication." Thus, Van De Berg necessarily DOES NOT DISCLOSE "selecting the plurality of frequency bands for the desired wireless communication in response to the signal quality indication" as required by claim 13. For all the

foregoing reasons, applicants respectfully submit that Van De Berg does not anticipate independent claim 13 of the present invention. Thus, claim 13 and depending claims 14-21 are patentable over Van De Berg under 35 U.S.C. § 102(b).

Applicants acknowledge the rejections of claims 2, 6-7, 11, 17, and 21 under 35 U.S.C. § 103(a), but consider them moot for all the foregoing reasons.

In view of the foregoing, applicants respectfully request reconsideration and allowance of claims 1-3 and 5-21. If the Examiner finds any issue that is unresolved, please call applicants' attorney by dialing the telephone number printed below.

Respectfully submitted,



Robert N. Rountree
Attorney for Applicants
Reg. No. 39,347

Robert N. Rountree, LLC
70360 Highway 69
Cotopaxi, CO 81223
Phone/Fax: (719) 783-0990